IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.970 OF 2006

M/s. Govindram Shobharam & Co. .. ..Petitioner

Versus

Smt. Usha Charudatt Shirguppe .. ..Respondent

Mr. A.A.Kumbhakoni i/b A.M.Kulkarni for petitioner

Mr.S.S.Patwardhan for respondent

CORAM : P.V.KAKADE, J.

DATE : 8TH MARCH, 2006.

P.C.:

1. Heard the learned counsel for both the parties. Perused the record.

2. The Plaintiff filed the suit for possession of the suit property, which is godown and is in possession of the defendant. According to the plaintiff, City

Survey No.7 situated in Pethbhag, Sangli is owned by her. According to her, she has purchased the said godown from her brother and the same is in possession of the defendant and defendant is using the same for keeping the grocery articles. The plaintiff has averred that her son Sachin is possessing decree of B.E. (Electronics) and is also conversant in Computer Education and therefore, he required the suit premises to start business activities in the premises. According to the plaintiff, the defendant possessed several properties which could be utilised by him for godown purpose and he has no in need of the premises and on such and other grounds the suit came to be filed for eviction of the defendant.

. The defendant contested the suit, inter alia, denying the allegations made by the plaintiff. It was the case sought to be made by the defendant that in fact the demand of the plaintiff is not bonafide and the only purpose for filing the suit is to derive profits from the suit property after obtaining its possession and on such and other grounds the suit was sought to be dismissed.

3. The learned trial court adjudicated the dispute on merits holding that the plaintiff had proved her

reasonable and bonafide requirements of the suit premises. It was also held that the plaintiff would suffer greater hardship by passing a decree of eviction than refusing to pass it and ultimately decreed the suit.

4. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties dismissed the appeal. Hence the present appeal.

5. At the outset, it may be noted that though the son of the plaintiff for whose requirement the suit premises was claimed has not entered into witness box, still the evidence of the plaintiff herself is sufficient to establish the bonafide and reasonable need of the demand of the suit premises. The contention on behalf of the petitioner is that the plaintiff-respondent intends to earn profit from the suit premises. As against this the evidence on record shows that the defendant owns several properties in Madhavnagar, Sangli, which could be used as godown for storing of his grocery articles and therefore, the issue in respect of greater hardship must be held against him.

6. Be as it may, the fact remains that no case is

made out by the petitioner for interference, as findings recorded and the order passed by the courts below appear to be just, legal and proper. In the result the petition has no merits and stands dismissed with no order as to costs.

7. At this stage the learned counsel for the petitioner sought some time to vacate the premises. In view of the facts and circumstances the period of six months is granted to vacate the premises from the date of this order on condition that the petitioner shall furnish an Undertaking to that effect with condition that he shall not crate third party interest in the suit property and all partners of the petitioner shall furnish Undertaking to that effect and in the meantime the petitioner shall continue to pay agreed rent of the suit premises during their occupancy. Undertaking to be furnished within two weeks from the date of this order.